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CITIZENS' LAW ENFORCEMENT REVIEW BOARD

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REGULAR MEETING AGENDA

TUESDAY, MARCH 8, 2011, 5:30 P.M.

San Diego County Administration Center

1600 Pacific Highway, Room 302/303, San Diego, 92101

The public portion of the meeting must be concluded in time to allow the public to vacate the building by 6:00 p.m.

(Free parking is available on the street or pay Ace Parking on the south side. Enter at the north entrance.)

Pursuant to Government Code Section 54954.2 the Citizens' Law Enforcement Review Board will conduct a meeting at the above time and place for the purpose of transacting or discussing business as identified on this agenda. Complainants, subject officers, representatives or any member of the public wishing to address the Board on any of today's agenda items should submit a "Request to Speak" form to the Administrative Secretary prior to the commencement of the meeting.

DISABLED ACCESS TO MEETING

A request for a disability-related modification or accommodation, including auxiliary aids or services, may be made by a person with a disability who requires a modification or accommodation in order to participate in the public meeting. Any such request must be made to Ana Becker at (619) 238-6776 at least 24 hours before the meeting.

1. ROLL CALL

2. MINUTES APPROVAL

- a) Minutes of the February 2011 Regular Meeting (*Attachment A*)

3. PRESENTATION / TRAINING

- a) Sheriff's Department Equipment & Technology: John Madigan

4. EXECUTIVE OFFICER'S REPORT

- a) Workload Report - Open Complaints/Investigations Report (*Attachment B*)

5. NEW BUSINESS

- a) Review Board communications to Sheriff and Probation Department
- b) Death Case Findings

-continued on next page-

6. UNFINISHED BUSINESS

- a) N/A

7. PUBLIC COMMENTS

This is an opportunity for members of the public to address the Board on any subject matter that is within the Board's jurisdiction. Each speaker should complete and submit a "Request to Speak" form to the Administrative Secretary. Each speaker will be limited to three minutes.

7. CLOSED SESSION

- a) **Discussion & Consideration of Complaints & Reports:** Pursuant to Government Code Section 54957 to hear complaints or charges brought against Sheriff or Probation employees by a citizen (unless the employee requests a public session).

DEFINITION OF FINDINGS	
Sustained	The evidence supports the allegation and the act or conduct was not justified.
Not Sustained	There was <u>insufficient evidence</u> to either prove or disprove the allegation.
Action Justified	The evidence shows the alleged act or conduct did occur but was lawful, justified and proper.
Unfounded	The evidence shows that the alleged act or conduct did not occur.
Summary Dismissal	The Review Board lacks jurisdiction or the complaint clearly lacks merit.

CASES FOR SUMMARY HEARING (7)

ALLEGATIONS, RECOMMENDED FINDINGS & RATIONALE

10-007

1. Misconduct/Procedure – Deputy 1 improperly classified the complainant resulting in injury.

Recommended Finding: Summary Dismissal

Rationale: Court decisions applicable to the Review Board and Government Code §3304(d) of the Public Safety Officers' Procedural Bill of Rights require that an investigation of a misconduct allegation that could result in discipline be completed within one year of discovery of the allegation, unless statutory exceptions apply. A review of the complaint showed no exceptions applied. Staff did not complete investigation of the complaint within one year, therefore the Review Board lacks jurisdiction.

2. Misconduct/Procedure – Deputy 1 confiscated the complainant's wheelchair without cause.

Recommended Finding: Summary Dismissal

Rationale: See #1.

3. Misconduct/Procedure – Deputy 1 improperly processed and/or delayed providing the complainant with Internal Affairs correspondence.

Recommended Finding: Summary Dismissal

Rationale: See #1.

4. Misconduct/Medical – The Sheriff's Department failed to provide proper medical care to the complainant.

Recommended Finding: Summary Dismissal

Rationale: CLERB has no jurisdiction over medical issues related to non-sworn personnel and this matter was referred back to the Sheriff's Department for further investigation.

10-008

1. Misconduct/Procedure – Deputy 1 issued no warnings and/or directives to the complainant before “attacking” him

Recommended Finding: Summary Dismissal

Rationale: Court decisions applicable to the Review Board and Government Code §3304(d) of the Public Safety Officers' Procedural Bill of Rights require that an investigation of a misconduct allegation that could result in discipline be completed within one year of discovery of the allegation, unless statutory exceptions apply. A review of the complaint showed no exceptions applied. Staff did not complete investigation of the complaint within one year, therefore the Review Board lacks jurisdiction.

2. Excessive Force – Deputy 1 beat the complainant to the point of unconsciousness.

Recommended Finding: Summary Dismissal

Rationale: See Rationale #1.

3. Misconduct/Procedure – Deputy 1 delayed seeking medical treatment and/or medication for the injured complainant.

Recommended Finding: Summary Dismissal

Rationale: See Rationale #1.

10-011

1. Deputy 3 racially profiled the aggrieved.

Recommended Finding: Summary Dismissal

Rationale: Court decisions applicable to the Review Board and Government Code §3304(d) of the Public Safety Officers' Procedural Bill of Rights require that an investigation of a misconduct allegation that could result in discipline be completed within one year of discovery of the allegation, unless statutory exceptions apply. A review of the complaint showed no exceptions applied. Staff did not complete investigation of the complaint within one year, therefore the Review Board lacks jurisdiction.

2. Illegal Search & Seizure – Deputy 1 patted down the aggrieved.

Recommended Finding: Summary Dismissal

Rationale: See Rationale #1.

3. Discrimination/Other – Deputies 1 and/or 2 mistook the aggrieved's disabilities from Autism as suspicious behaviors while detaining him as a robbery suspect.

Recommended Finding: Summary Dismissal

Rationale: See Rationale #1.

4. Misconduct/Procedure – Deputies 1 and/or 2 refused the aggrieved's requests to call his parents while he was detained, telling him it wasn't necessary.

Recommended Finding: Summary Dismissal

Rationale: See Rationale #1.

5. Misconduct/Discourtesy – Deputy 2 was rude (unprofessional, hostile, defensive) to the complainant on the phone.

Recommended Finding: Summary Dismissal

Rationale: See Rationale #1.

6. Misconduct/Discourtesy – Deputy 2 encouraged the complainant to “go right ahead” and file a complaint about her phone etiquette.

Recommended Finding: Summary Dismissal

Rationale: See Rationale #1.

10-014

1. Misconduct/Harassment - Deputy 6 “singled out” and “harassed” the aggrieved, the complainant’s son, on numerous occasions.

Recommended Finding: Summary Dismissal

Rationale: Court decisions applicable to the Review Board and Government Code §3304(d) of the Public Safety Officers’ Procedural Bill of Rights require that an investigation of a misconduct allegation that could result in discipline be completed within one year of discovery of the allegation, unless statutory exceptions apply. A review of the complaint showed no exceptions applied. Staff did not complete investigation of the complaint within one year, therefore the Review Board lacks jurisdiction.

2. Misconduct/Intimidation - Deputy 6 told the aggrieved she would “put the word out” to other deputies to pull the aggrieved over in his vehicle if the aggrieved was not forthcoming when questioned.

Recommended Finding: Summary Dismissal

Rationale: See Rationale #1.

3. False Reporting - Deputy 6 alleged that the aggrieved and his older brother were involved in illegal activity, thefts, and property damage.

Recommended Finding: Summary Dismissal

Rationale: See Rationale #1.

4. Illegal Search & Seizure - Deputy 6 “through a stretch of her imagination and without substantial probable cause convinced” a judge to sign a search warrant for stolen items at the complainant’s home.

Recommended Finding: Summary Dismissal

Rationale: See Rationale #1.

5. Illegal Search & Seizure - Deputies 1-6 served a search warrant on the complainant’s home in violation of the family’s privacy and due process rights, resulting in a search that produced none of the stolen items.

Recommended Finding: Summary Dismissal

Rationale: See Rationale #1.

10-015

1. Excessive Force – Deputies 1 - 4 slammed the aggrieved to the ground and placed a knee into his back resulting in a broken shoulder.

Recommended Finding: Summary Dismissal

Rationale: Court decisions applicable to the Review Board and Government Code §3304(d) of the Public Safety Officers' Procedural Bill of Rights require that an investigation of a misconduct allegation that could result in discipline be completed within one year of discovery of the allegation, unless statutory exceptions apply. A review of the complaint showed no exceptions applied. Staff did not complete investigation of the complaint within one year, therefore the Review Board lacks jurisdiction.

2. False Arrest – Deputy 1 arrested a mentally ill person who had just attempted suicide instead of taking him to County Mental Health.

Recommended Finding: Summary Dismissal

Rationale: See Rationale #1.

3. Misconduct/Medical – Jail medical staff only provided Ibuprofen to the aggrieved who had a broken shoulder.

Recommended Finding: Summary Dismissal

Rationale: CLERB has no jurisdiction over medical issues related to non-sworn personnel and this matter was referred back to the Sheriff's Department for further investigation.

10-036

1. Misconduct/Procedure – Deputy 1 threatened the complainant with arrest for non-cooperation, when he was unavailable to rectify the situation.

Recommended Finding: Action Justified.

Rationale: Deputy 1 left two recorded voice messages to the complainant stating that crime reports would be submitted if missing computer equipment was not returned to its owner. The recorded voice messages to the complainant factually reported that the business owner believed the complainant had removed the equipment without permission and if the equipment was not returned a crime report for grand theft report would be submitted. No suspects were identified in the Crime/Incident Report subsequently submitted. The evidence shows the alleged act or conduct did occur but was lawful, justified, and proper.

10-109

1. False Arrest – Deputies went to the complainant's home on October 17, 2010, arrested her and took her to a hospital against her wishes.

Recommended Finding: Summary Dismissal

Rationale: Per the complainant's request, CLERB has ceased investigation of this case based upon CLERB Rules & Regulations: 5.7 Withdrawal of Complaints.

2. False Arrest – Deputies arrested the complainant on November 11, 2010, at the Santee Rite Aid and took her to three different medical facilities against her wishes.

Recommended Finding: Summary Dismissal

Rationale: See Rationale #1.

3. Misconduct/Procedure – Deputies failed to investigate a complaint of Elder Abuse reported by the complainant on November 15, 2010, at the Santee Patrol Station.

Recommended Finding: Summary Dismissal

Rationale: See rationale #1